



DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-979]

Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2018-2019

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) has determined that the manufacturers/exporters of crystalline silicon photovoltaic cells, whether or not assembled into modules (solar cells), from the People's Republic of China (China) listed in the "Final Results of Review" section below, did not sell subject merchandise in the United States at less than normal value during the period of review (POR) December 1, 2018, through November 30, 2019.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Jeff Pedersen or Aleksandras Nakutis, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2769 or (202) 482-3147, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 22, 2021, Commerce published the *Preliminary Results* of this review in the *Federal Register*.¹ After publication of the *Preliminary Results*, a number of interested parties filed case and rebuttal briefs and Commerce held a public hearing (*see* the Issues and Decision

¹ See *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, Partial Rescission of Antidumping Administrative Review, and Preliminary Determination of No Shipments; 2018–2019*, 86 FR 21277 (April 22, 2021) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

Memorandum for details).² On August 12, 2021, Commerce extended the deadline for the final results of this review until September 24, 2021.³ On September 22, 2021, Commerce extended the deadline for the final results of this review until October 19, 2021.⁴ The final weighted-average dumping margins are in the “Final Results of Review” section of this notice.

Scope of the Order⁵

The merchandise covered by this order is crystalline silicon photovoltaic cells, and modules, laminates, and panels, consisting of crystalline silicon photovoltaic cells, whether or not partially or fully assembled into other products, including, but not limited to, modules, laminates, panels and building integrated materials.⁶ Merchandise covered by this order is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 8501.61.0000, 8507.20.80, 8541.40.6015, 8541.40.6020, 8541.40.6025, 8541.40.6030, 8541.40.6035, 8541.40.6045, and 8501.31.8000. Although these HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive. For a complete description of the scope of the order, *see* the Issues and Decision Memorandum.

Analysis of Comments Received

We addressed all of the issues that were raised in interested parties’ case and rebuttal briefs in the Issues and Decision Memorandum. A list of the sections in the Issues and Decision Memorandum, including a list of issues that parties raised, and to which we responded, is in the

² See Memorandum, “Issues and Decision Memorandum for the Final Results of the 2018-2019 Antidumping Duty Administrative Review of Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People’s Republic of China,” dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

³ See Memorandum, “Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People’s Republic of China: Extension of Deadline for Final Results of Antidumping Duty Administrative Review; 2018-2019,” dated August 12, 2021.

⁴ See Memorandum, “Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People’s Republic of China: Second Extension of Deadline for Final Results of Antidumping Duty Administrative Review; 2018-2019,” dated September 22, 2021.

⁵ The scope was most recently updated in *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People’s Republic of China: Final Results of Changed Circumstances Reviews, and Revocation of the Antidumping and Countervailing Duty Orders*, 83 FR 65344 (December 20, 2018).

⁶ For a complete description of the scope of the order, *see* the Issues and Decision Memorandum.

appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://access.trade.gov/public/FRNoticesListLayout.aspx>.

Final Determination of No Shipments

We have continued to find that, during the POR, there were no entries of subject merchandise into the United States from, or exports or sales of subject merchandise to the United States by, the following companies: (1) BYD (Shangluo) Industrial Co., Ltd.; (2) Changzhou Trina Solar Energy Co., Ltd., Trina Solar (Changzhou) Science and Technology Co., Ltd., Yancheng Trina Solar Energy Technology Co., Ltd., Changzhou Trina Solar Yabang Energy Co., Ltd., Turpan Trina Solar Energy Co., Ltd., Hubei Trina Solar Energy Co., Ltd., Trina (Hefei) Science and Technology Co., Ltd.; and (3) Shanghai BYD Co., Ltd.

Changes Since the *Preliminary Results*

Since issuing the *Preliminary Results*, we corrected certain ministerial errors in our calculation of Jinko's weighted-average dumping margin, (*i.e.*, programming language regarding the calculation of normal value and domestic brokerage and handling expenses). Based on comments regarding the draft liquidation instructions to U.S. Customs and Border Protection (CBP) that we circulated to the parties, we updated the instructions regarding any shipments by Trina.

Separate Rates

No parties commented on our preliminary separate rate findings. Therefore, we have continued to grant Jinko⁷ and Risen,⁸ (the mandatory respondents) and the nine other companies/company groups listed in the “Final Results of Review” section below separate rate status. However, we have continued to deny separate rate status to the 25 companies listed in Appendix II of the *Preliminary Results*.

Dumping Margin for Non-Individually Examined Respondents Granted Separate Rate Status

The statute and Commerce’s regulations do not address the rate to apply to respondents not selected for individual examination in a non-market economy (NME) administrative review who are eligible for a separate rate. When considering which rate to apply to such respondents, Commerce generally looks to section 735(c)(5) of the Tariff Act of 1930, as amended (the Act), which provides instructions for calculating the all-others rate in an antidumping duty investigation. Section 735(c)(5)(A) of the Act instructs Commerce to base the all-others rate on the estimated weighted-average dumping margins established for the exporters and producers individually investigated, excluding any dumping margins that are zero, *de minimis*, or based entirely on facts available. However, section 735(c)(5)(B) of the Act provides that, where all of the estimated dumping margins for the exporters and producers individually investigated are either zero, *de minimis*, or are determined entirely under section 776 of the Act, Commerce may use any reasonable method to establish the rate for exporters and producers not individually examined.⁹

The SAA provides that when the dumping margins for all individually examined

⁷ We have continued to treat the following companies as a single entity: Jinko Solar Import and Export Co., Ltd.; Jinko Solar Co., Ltd.; JinkoSolar Technology (Haining) Co., Ltd.; Yuhuan Jinko Solar Co., Ltd.; Zhejiang Jinko Solar Co., Ltd.; and Jiangsu Jinko Tiansheng Solar Co., Ltd. (collectively, Jinko).

⁸ We have continued to treat the following companies as a single entity: Risen Energy Co. Ltd.; Risen (Wuhai) New Energy Co., Ltd.; Zhejiang Twinsel Electronic Technology Co., Ltd.; Risen (Luoyang) New Energy Co., Ltd.; Jiujiang Shengchao Xinye Technology Co., Ltd.; Jiujiang Shengzhao Xinye Trade Co., Ltd., Ruichang Branch; Risen Energy (HongKong) Co., Ltd.; Risen Energy (Changzhou) Co., Ltd.; and Risen Energy (YIWU) Co., Ltd. (collectively, Risen).

⁹ See the Statement of Administrative Action accompanying the Uruguay Round Agreements Act (SAA), H.R. Rep. No. 103-316 at 870-873 (1994), *reprinted* in 1994 U.S.C.C.A.N. 4040, 4200.

respondents are zero, *de minimis*, or determined entirely on the basis of facts available, the “expected method” of determining the all-others rate is to weight average the zero and *de minimis* dumping margins with the dumping margins based on facts available, provided that volume data are available.¹⁰ This practice has been upheld by both the United States Court of International Trade and United States Court of Appeals for the Federal Circuit (CAFC).¹¹ In *Albemarle* and *Changzhou Hawd 2017*, the CAFC held that under the “expected method” the rates determined for the “mandatory respondents are assumed to be representative” of the experience of the non-selected companies.¹²

We calculated weighted-average dumping margins of zero percent for both mandatory respondents. Accordingly, pursuant to section 735(c)(5)(B) of the Act and the CAFC’s decisions in *Albemarle* and *Changzhou Hawd 2017*, we assigned a dumping margin of zero percent to the separate rate recipients not selected for examination.

Final Results of Review

We are assigning the following dumping margins to the firms listed below for the period December 1, 2018, through November 30, 2019:

Producers/Exporters	Weighted-Average Dumping Margin (percent)
Jinko Solar Import and Export Co., Ltd./Jinko Solar Co., Ltd./JinkoSolar Technology (Haining) Co., Ltd./Yuhuan Jinko Solar Co., Ltd./Zhejiang Jinko Solar Co., Ltd./Jiangsu Jinko Tiansheng Solar Co., Ltd.	0.00
Risen Energy Co. Ltd./Risen (Wuhai) New Energy Co., Ltd./ Zhejiang Twinsel Electronic Technology Co., Ltd./Risen (Luoyang) New Energy Co., Ltd./ Jiujiang Shengzhao Xinye Technology Co., Ltd./Jiujiang Shengchao Xinye Trade Co., Ltd., Ruichang Branch/Risen Energy (HongKong) Co., Ltd./Risen Energy (Changzhou) Co., Ltd./ Risen Energy (Yiwu) Co., Ltd.	0.00

¹⁰ *Id.* at 873.

¹¹ See *Albemarle Corp. & Subsidiaries v. United States*, 821 F.3d 1345, 1351-52 (Fed. Cir. 2016) (*Albemarle*); see also *Changzhou Hawd Flooring Co., v. United States*, 848 F.3d 1006, 1012 (Fed. Cir. 2017) (*Changzhou Hawd 2017*); and *Navneet Publications (India) Ltd. v. United States*, 999 F. Supp. 2d 1354, 1358 (CIT 2014) (*Navneet*).

¹² See *Changzhou Hawd 2017*, 843 F.3d at 1012 (citing *Albemarle*, 821 F.3d at 1351-54) (explaining that, under *Albemarle*, Commerce cannot “deviate from the expected method unless it is found, based on substantial evidence, that the separate-rate firms’ dumping is different from that of the mandatory respondents”).

Review-Specific Average Rate Applicable to the Following Companies:	
Anji DaSol Solar Energy Science & Technology Co., Ltd.	0.00
Canadian Solar International Limited/Canadian Solar Manufacturing (Changshu), Inc./Canadian Solar Manufacturing (Luoyang) Inc./CSI Cells Co., Ltd./CSI-GCL Solar Manufacturing (YanCheng) Co., Ltd./CSI Solar Power (China) Inc.	0.00
Chint Solar (Zhejiang) Co., Ltd./ Chint New Energy Technology (Haining) Co., Ltd./Chint Solar (Jiuquan) Co., Ltd./ Chint Solar (Hong Kong) Company Limited	0.00
LONGi Solar Technology Co., Ltd.	0.00
Shenzhen Sungold Solar Co., Ltd.	0.00
Shenzhen Topray Solar Co., Ltd.	0.00
Wuxi Tianran Photovoltaic Co., Ltd.	0.00
Yingli Energy (China) Company Limited/Baoding Tianwei Yingli New Energy Resources Co., Ltd./Tianjin Yingli New Energy Resources Co., Ltd./Hengshui Yingli New Energy Resources Co., Ltd./Lixian Yingli New Energy Resources Co., Ltd./Baoding Jiasheng Photovoltaic Technology Co., Ltd./Beijing Tianneng Yingli New Energy Resources Co., Ltd./Hainan Yingli New Energy Resources Co., Ltd./Shenzhen Yingli New Energy Resources Co., Ltd.	0.00
Zhejiang Aiko Solar Energy Technology Co., Ltd.	0.00

Commerce's policy regarding the conditional review of the China-wide entity applies to this administrative review.¹³ Under this policy, Commerce will not review the China-wide entity in an administrative review unless a party specifically requests, or Commerce self-initiates, a review of the entity. Because no party requested a review of the China-wide entity, and Commerce did not self-initiate a review of the entity, the China-wide entity is not under review, and the dumping margin assigned to the China-wide entity (*i.e.*, 238.95 percent) has not changed.¹⁴

Disclosure

Pursuant to 19 CFR 351.224(b), within five days of the publication of this notice in the *Federal Register*, we will disclose to the parties to this proceeding, the calculations that we performed for these final results of review.

¹³ See *Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings*, 78 FR 65963, 65969-70 (November 4, 2013).

¹⁴ See *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2015-2016*, 83 FR 35616 (July 27, 2018).

Assessment

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b), Commerce will determine, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise covered by the final results of this review. Because the respondents' weighted average dumping margins are zero percent, we will instruct CBP to liquidate appropriate entries without regard to antidumping duties.¹⁵ Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication date of the final results of this review in the *Federal Register*. If a timely summons is filed at the CIT, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication).

Where merchandise was entered into the United States under the case number of a mandatory respondent in this review during the POR (*i.e.*, entered under the mandatory respondent's cash deposit rate), but the mandatory respondent did not report a corresponding sale or entry in its U.S. sales database, we will instruct CBP to liquidate such entries at the China-wide rate. In addition, for the companies for which we determined that there were no entries, exports, or sales of subject merchandise during the POR, any suspended entries of subject merchandise entered under one of the companies' case numbers during the POR will be liquidated at the China-wide rate.¹⁶

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review in the *Federal Register*. Pursuant to section 751(a)(2)(C) of the Act, for shipments of subject merchandise from China entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal*

¹⁵ See *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification*, 77 FR 8101, 8103 (February 14, 2012).

¹⁶ See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011), for a full discussion of this practice. For reasons described in Comment 8 of the IDM, we intend to liquidate certain entries by Trina during the POR at the cash deposit rate under which they were entered.

Register, the following cash deposits will be required: (1) for the companies/company groups listed in the table in the “Final Results of Review” section above, the cash deposit rate will be the rate listed for each company/company group in the table; (2) for previously investigated Chinese and non-Chinese exporters that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (3) for all Chinese exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the rate previously established for the China-wide entity (*i.e.*, 238.95 percent); and (4) for all non-China exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the Chinese exporter that supplied the non-Chinese exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce’s presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Orders

This notice also serves as a reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(5).

Dated: October 19, 2021.

Ryan Majerus,
*Deputy Assistant Secretary
for Policy and Negotiations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance.*

Appendix

Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Changes Since the *Preliminary Results*
- V. Discussion of the Issues
 - Comment 1. Whether to Apply Partial Facts Available or Partial Adverse Facts Available
 - Comment 2. Whether Certain Sales by Risen are Constructed Export Price (CEP) Sales
 - Comment 3. Whether Commerce Made Ministerial Errors
 - Comment 4. Whether Commerce Should Grant a Double Remedy Offset
 - Comment 5. Chint Solar's Name
 - Comment 6. The Correct Assessment Rate for Entries of Trina's Subject Merchandise
 - Comment 7. The Appropriate Surrogate Value for Silver Paste
 - Comment 8. The Appropriate Surrogate Value for Marine Insurance
 - Comment 9. The Appropriate Surrogate Value for Air Freight
 - Comment 10. The Appropriate Surrogate Value for Ocean Freight
 - Comment 11. The Appropriate Surrogate Value for Solar Glass
 - Comment 12. The Appropriate Surrogate Value for Ethylene Vinyl Acetate (EVA) Sheet
 - Comment 13. The Appropriate Surrogate Value for Backsheet
 - Comment 14. The Appropriate Surrogate Financial Statements

- VI. Recommendation

[FR Doc. 2021-23181 Filed: 10/22/2021 8:45 am; Publication Date: 10/25/2021]